

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE OF \$50,000 OF NOTES IN ANTICIPATION OF THE LEVY AND COLLECTION OF SPECIAL ASSESSMENTS AND OF THE ISSUANCE OF BONDS TO PAY THE PROPERTY OWNERS' PORTION OF THE COST OF CONSTRUCTING CURBS, GUTTERS AND SIDEWALKS ON WOODROW AVENUE N.W. AND THE WEST SIDE OF MARQUARDT AVENUE N.E. BETWEEN CERTAIN TERMINI, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of North Canton has heretofore by proper legislation declared the necessity of constructing curbs, gutters and sidewalks on Woodrow Avenue N.W. and the west side of Marquardt Avenue N.E. between certain termini; and

WHEREAS, Council based upon actual construction bids received and other estimates of cost has found and determined that the property owners' portion of the cost of said improvement will not be less than \$50,000; and

WHEREAS, the Director of Finance, as fiscal officer of the City, has certified to this Council that the estimated life of the improvement hereinafter mentioned is at least five years, that the maximum maturity of the bonds hereinafter referred to is five years, and that the maximum maturity of the notes to be issued in anticipation of said bonds is five years, if sold publicly or to one of the funds of the City, or one year if sold privately;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of North Canton, Stark County, Ohio:

Section 1. That it is hereby declared necessary to issue bonds of the City of North Canton in the principal sum of \$50,000 for the purpose of paying the property owners' portion, in anticipation of the levy and collection of special assessments, of the cost of constructing curbs, gutters and sidewalks on Woodrow Avenue N.W. and the west side of Marquardt Avenue N.E. between the termini and in the manner provided in Resolution No. 31-79, adopted February 26, 1979.

Section 2. That said bonds shall be dated approximately July 1, 1980; shall bear interest at the estimated rate of six per centum (6%) per annum, payable semi-annually, until the principal sum is paid, and shall mature in five substantially equal annual installments after the issuance thereof.

Section 3. That it is necessary and this Council hereby determines that notes in the aggregate principal amount of \$50,000 shall be issued in anticipation of the issuance of said bonds for the above-described improvement.

Section 4. That such anticipatory notes in the amount aforesaid shall be dated the date of issuance, shall mature one year from said date and shall bear interest at a rate or rates not to exceed eight per centum (8%) per annum, payable at maturity, with provision, if requested by the purchaser, that, in the event of default in the payment of the principal of such notes at maturity, the same shall bear interest at a rate or rates not exceeding eight per centum (8%) per annum from the said maturity until the principal sum is paid. Said notes shall be issued in such number and denomination as are requested by the purchaser.

Section 5. Such notes shall be executed by the Mayor and the Director of Finance and bear the seal of the corporation. They shall be payable in Federal Reserve funds of the United States of America at the office of The Harter Bank & Trust Company, Canton, Ohio, without deduction for its services as the City's paying agent, and shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this ordinance.

Section 6. Subject to the rejection of said notes by the Director of Finance of the City as officer in charge of the Bond Retirement Fund, said notes shall be sold by him at private sale for not less than the par value thereof in accordance with the provisions of Section 4 of this ordinance; and the Director of Finance is hereby authorized and directed to deliver such notes, when executed, to the purchaser upon payment of such purchase price. The proceeds of such sale, except any premium and accrued interest, shall be paid into the proper fund and used for the purpose for which such notes are being issued under the provisions of this ordinance. Any premium and accrued interest shall be paid into the Bond Retirement Fund to be applied in the payment of principal and interest of said notes in the manner provided by law.

The City hereby covenants that it will restrict the use of the proceeds of the notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time of the delivery of and payment for such notes, so that the notes will not constitute arbitrage bonds under Section 103(c) of the Internal Revenue Code and the applicable income tax regulations under that Section. The fiscal officer or any other officer, including the Clerk of Council, having responsibility for issuing the notes is authorized and directed, alone or in conjunction with any of the foregoing or with any other officer, employee, or consultant of the City, to give an appropriate certificate of the City, for inclusion in the transcript of proceedings, setting forth the reasonable expectations of the City regarding the amount and use of all such proceeds and the facts and estimates on which they are based, all as of the date of delivery and payment for such notes.

Section 7. All assessments collected for the improvement aforesaid, and any unexpended balance remaining in the improvement fund after the costs and expenses of said improvement have been paid, shall be applied to the payment of said notes and the interest thereon until both are fully provided for.

Section 8. Such notes shall be the full general obligations of the City and the full faith, credit and revenue of said City are hereby pledged for the prompt payment of the same. The par value to be received from the sale of the bonds anticipated by said notes and any excess funds resulting from the issuance of said notes shall to the extent necessary be used only for the retirement of said notes at maturity, together with interest thereon, and are hereby pledged for such purpose.

Section 9. In the event that such assessments are not levied or bonds are not issued to provide a fund for the payment of said notes at maturity, a general tax shall be levied against all of the property in said City for the payment of such notes and the interest thereon.

Said tax shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner and at the same time that taxes for general purposes for each of said years are certified, extended and collected. Said tax shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from said tax levies hereby required shall be placed in a

separate and distinct fund, which, together with the interest collected on the same, shall be irrevocably pledged for the payment of the principal and interest of said notes or the bonds in anticipation of which they are issued when and as the same fall due.

Section 10. It is hereby determined and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of said notes, in order to make them legal, valid and binding obligations of the City of North Canton, have happened, been done and performed in regular and due form and as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, will have been exceeded in the issuance of said notes.

Section 11. The Clerk of Council is hereby authorized and directed to forward a certified copy of this ordinance to the County Auditor.

Section 12. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 13. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City and for the further reason that the immediate issuance and sale of the notes herein authorized is necessary to enable the City to meet its obligations in connection with the construction contract for said improvement which is urgently required to eliminate existing hazards to the traveling public; wherefore, this ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

North Canton, Ohio  
Passed: June 11, 1979

Approved: June 13, 1979

Attest:

Marion J. Wilson  
Clerk of Council

Dennis Gady  
Mayor

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<u>Marion J. Wilson</u> CLERK OF COUNCIL